

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

---

STATE OF TENNESSEE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. _____
	)	
PUBLISHERS CLEARING HOUSE, )		
	)	
Defendant.	)	
	)	

---

CONSENT JUDGMENT

---

I. GENERAL PROVISIONS

1. Scope of Consent Judgment. The injunctive provisions of this Consent Judgment are entered pursuant to Tenn. Code Ann. §47-18-108, and specifically §47-18-104, §47-18-120 and §47-18-124, of the Tennessee Consumer Protection Act, Tenn. Code Ann. §§47-18-101, *et. seq.*, (the “Act”) (including Tenn. Code Ann. §47-18-125, regarding the protection of elder persons and supplemental penalties under the Act) and any civil consumer protection law relating to sweepstakes promotions and practices and are applicable to Publishers Clearing House, a New York limited partnership (“PCH”), and all of its subsidiaries and affiliates, general partners, officers, directors, employees, agents, servants, and representatives of any of them, and the successors and assigns of each thereof, and all persons, corporations, partnerships, and other entities acting in concert or participating with PCH, who have actual or constructive knowledge of this Consent Judgment. Notwithstanding anything to the contrary set forth in this Consent Judgment or otherwise, this Consent Judgment applies to natural persons only in their respective capacities as directors, officers, employees, agents, or servants of PCH or other relevant entity and does not create any personal liability, nor shall any of them be subjected to any penalty or sanction or otherwise personally be answerable for any conduct that is alleged to be a

violation of any provision hereof, but all penalties and sanctions imposed for such violations shall be imposed solely on PCH or the relevant entity, as the case may be.

2. Release of Claims. The State acknowledges by its execution hereof that this Consent Judgment constitutes a complete settlement and release of all claims on behalf of the State against PCH, and all of its subsidiaries and affiliates, past and present, and their past and present general partners, officers, directors, employees, agents, servants, limited partners, and members of its Executive Committee, and representatives of any of them, and the successors and assigns of each thereof (all such released parties shall be collectively referred to as the “Releases”), with respect to all claims, causes of action, damages, fines, costs, and penalties which were asserted or could have been asserted prior to the Effective Date under the above-cited consumer protection statutes and relating to or based upon the acts or practices which are the subject of this Consent Judgment. The State agrees that it shall not proceed with or institute any civil action or proceeding based upon the above-cited consumer protection statutes against the Releases, including but not limited to an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys' fees, or costs, for any communication disseminated prior to the Effective Date which relates to the subject matter of this Consent Judgment or for any conduct or practice prior to the Effective Date which relates to the subject matter of this Consent Judgment. Notwithstanding the foregoing, the State may institute an action or proceeding to enforce the terms and provisions of this Consent Judgment or to take action based on future conduct by the Releases.

3. Preservation of Law Enforcement Action. Nothing herein precludes the State from enforcing the provisions of this Consent Judgment, or from pursuing any law enforcement action with respect to the acts or practices of PCH not covered by this Consent Judgment or any acts or practices of PCH conducted after the Effective Date of this Consent Judgment.

4. Compliance with and Application of State Law. Nothing herein relieves PCH of its duty to comply with applicable laws of the State nor constitutes authorization by the State for PCH to engage in

acts and practices prohibited by such laws.<sup>1</sup> This Consent Judgment shall be governed by the laws of the State.

5. Non-Approval of Conduct. Nothing herein constitutes approval by the State of PCH's past or future Sweepstakes or other practices. PCH shall not make any Representation contrary to this paragraph.

6. Preservation of Private Claims and Relation to Private Settlements. Nothing herein shall be construed as waiver of any private rights, causes of action, or remedies of any person against PCH with respect to the acts and practices covered by this Consent Judgment. PCH agrees to the terms and conditions of this Consent Judgment as additional obligations above and beyond the terms of its settlement in *Thomas G. Vollmer, et al. v. Publishers Clearing House, et al.*, United States District Court, Southern District of Illinois, Case No. 99-434-GPM. PCH hereby waives all arguments and legal grounds that PCH's obligations under this Consent Judgment are in any way limited by the settlement or the court's order in *Vollmer*.

7. Relationship to Prior State Enforcement Actions. This Consent Judgment supersedes the Assurance of Voluntary Compliance offered by PCH, accepted by the State, and approved by the Davidson County Chancery Court in *State of Tennessee v. Publishers Clearing House*, on August 24, 1994, Case No. 94-2570 Part III. Nothing herein is affected by the Agreed Entry and Final Judgment Order in *State of Ohio ex rel. Montgomery v. Publishers Clearing House*, Case No. 00CVH-01-635.

8. Use of Settlement as Defense. PCH acknowledges that it is the State's customary position that an agreement restraining certain conduct on the part of a defendant does not prevent the State from

---

<sup>1</sup> As set forth in Paragraph 4, nothing in this Consent Judgment shall be deemed to waive PCH's requirement of complying with applicable state laws, specifically the Tennessee Consumer Protection Act (including but not limited to Tenn. Code Ann. §§ 47-18-120 and 47-18-124, if and when applicable). PCH represents it is its intent to comply with all applicable state laws.

addressing later conduct that could have been prohibited, but was not, in the earlier agreement, unless the earlier agreement expressly limited the State's enforcement options in that manner. Therefore, nothing herein shall be interpreted to prevent the State from taking enforcement action to address conduct occurring after the entry of this Consent Judgment that the State believes to be in violation of the law. The fact that such conduct was not expressly prohibited by the terms of this Consent Judgment shall not be a defense to any such enforcement action.

9. Execution in Counterparts. This Consent Judgment may be executed in counterparts.

## II. DEFINITIONS

10. Definitions. The following definitions shall be used in interpreting the terms of this Consent Judgment.

- a. **“Bonus”** means any item or items offered as an inducement to purchase other merchandise, or made available only to persons ordering such other merchandise, where (i) no additional payment is required to obtain the item(s) and (ii) the item(s) have a total retail value of \$30.00 or less, adjusted annually by the percentage change in the Consumer Price Index since the Effective Date.
- b. The **“Buying Won't Help You Win Message”** means the following statement:  
**“Buying Won't Help You Win.** Your chances of winning without a purchase are the same as the chances of someone who buys something. It would not be lawful to give any advantage to buyers in a Sweepstakes.”
- c. **“Clear and Conspicuous”** means readily understandable and presented in such size, color, contrast, location, and audibility, compared to the other matter with which it is presented, as to be readily noticed and understood. If a statement modifies, explains,

or clarifies other information with which it is presented, it shall also be presented in close proximity to the information it modifies and it shall not be obscured. This definition applies to other forms of the words “Clear and Conspicuous,” such as “Clearly and Conspicuously.”

- d. **“Effective Date”** means the date this Consent Judgment is entered, provided that the provisions of this Consent Judgment shall apply only to those Sweepstakes Communications that are released for printing sixty (60) days after the Effective Date but in all events shall apply to any Sweepstakes Communication mailed by PCH after one hundred twenty (120) days from the date this Consent Judgment is entered regardless of the date such materials were released for printing.
- e. The **“Enter for Free Message”** means the following statement: **“Enter for Free.** You don't have to buy anything to enter. Just mail the entry form included in this mailing or follow the instructions in the Official Rules. ”
- f. The **“Enter As Often As You Like Message”** means the following statement:  
**“Enter as Often as You Like.** You don't have to wait for us to mail you an entry form. You may submit additional entries simply by writing us at: [specify address]. Each time you write to us you will be entered once in each ongoing Sweepstakes. Each entry request must be mailed separately.”
- g. **“Entry Device”** means any device or mechanism included in a Sweepstakes Communication that can be used to enter a Sweepstakes, but excludes other entry devices or mechanisms such as a toll-free telephone entry method or write-in entries submitted by consumers on their own initiative.

- h. **“Merchandise”** shall include any objects, wares, goods, commodities, intangibles, real estate, services or anything offered, directly or indirectly, to the public for sale.
- i. **“Misrepresent”** means any Representation that is false or misleading.
- j. **“Odds of Winning”** means the phrase “1 in XXX,” where XXX equals the quotient of the best estimate, based upon recent prior experience with the Sweepstakes or similar Sweepstakes, of the number of entries to be received during the course of the Sweepstakes divided by the number of units of the Prize to be awarded. For purposes of this Consent Judgment each chance to win contained in a communication constitutes a separate entry.
- k. **“Official Rules”** means the formal printed statement of the rules for a Sweepstakes appearing in a communication.
- l. **“Order”** means a consumer offer to purchase Merchandise from PCH, or a consumer request for PCH to sell Merchandise to the consumer, regardless of whether or not the consumer ever pays for the Merchandise. For the purposes of this Consent Judgment, “order” and “purchase” have the same meaning and “orderer” refers to a consumer who orders.
- m. **“Premium”** means any item offered as an inducement to purchase other Merchandise, or made available only to persons ordering such other Merchandise, where (i) some payment is required (in addition to the price of the Merchandise) to obtain the item and (ii) the item has a retail value of more than \$ 30.00 (adjusted annually by the percentage change in the Consumer Price Index since the Effective Date). The term “Premium” excludes items offered only as accessories to products purchased or as additional units of the products purchased.

- n. **“Prize”** means cash or an item or service of monetary value that is offered or awarded to a winner in a Sweepstakes or Skill Contest. The term does not include one or more similarly valued items or cash amounts of nominal value that are distributed to all or substantially all participants in a Sweepstakes or Skill Contest.
- o. **“Recipient”** means a natural person to whom a communication is made by PCH.
- p. **“Represent”** means to state, or to imply through statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages, or through any other manner or means by which meaning might be conveyed. For purposes of this Consent Judgment, this definition applies to other forms of the word “Represent,” including without limitation “Representation.” In determining the express or implied meaning of a Representation that appears from the outside of a mailing envelope, only matter visible without opening the envelope shall be considered.
- q. The **“Settling States”** are: Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, North Carolina, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, West Virginia, and Wisconsin.
- r. **“Skill Contest”** means a puzzle, game, competition, or other contest in which the outcome depends in whole or in part on the skill of the contestant, and in which an Order, payment, or donation is required or implied to be required to enter the contest.
- s. **“Sweepstakes”** means any contest, giveaway, drawing, or other enterprise or promotion in which anything of value is offered or awarded to entrants by chance or random selection.

- t. **“Sweepstakes Communication”** means any communication delivered by mail, by newspaper or magazine advertisement, by television or radio broadcast media, or by E-mail, Internet, or Internet web page by or on behalf of PCH that offers an opportunity to enter a Sweepstakes, refers to a Sweepstakes, or refers to the opportunity to enter a Sweepstakes. Where a mailing contains a component with any of the foregoing, then the entire mailing constitutes a Sweepstakes Communication. The term does not include consumer education materials, customer service communications, or communications responding to consumer complaints or inquiries. Any provision in this Consent Judgment that does not expressly refer to a Sweepstakes Communication applies to all communications regardless of their nature or form, unless otherwise expressly limited.
- u. **“You Have Not Yet Won Message”** means the following statement: **“You Have Not Yet Won. All Entries Have the Same Chance of Winning.** The winner has not been identified. We don't know who the winner is. If you enter our Sweepstakes, your entry will have the same chance of winning as any other entry.”

### **III. INJUNCTIVE TERMS**

#### **A. Business Practices -- Representations in Solicitations**

11. Prohibition of False Statements of Fact. PCH shall not make statements of fact that are false in any Sweepstakes Communication or sales solicitation.



12. Prohibition of False Representations, Deception, Omissions, and Concealment. PCH shall not make Representations that, under applicable State law, are false, deceptive or misleading, or omit or conceal facts which, under applicable State law, are material, in any Sweepstakes Communication.

13. Unconditional Winner Representations. PCH shall not Represent that the Recipient of a Sweepstakes Communication has won, is the winner, or unconditionally will be the winner of a Sweepstakes or a Prize unless:

- a. such person or their entry has won or will be determined to be the winner,
- b. the Representation is not false, deceptive, or misleading, and
- c. the Prize and its value are Clearly and Conspicuously disclosed in the Representation itself.

14. Conditional Winner Representations. PCH shall not Represent that the Recipient or a limited number of individuals may be or may become the winner, characterize the Recipient as a possible winner, or Represent that the Recipient will, upon the satisfaction of some condition or the occurrence of some event or other contingency, become the winner of a Sweepstakes Prize unless:

- a. Such Representation conveys in readily noticeable and readily understandable terms that the Recipient has not been identified as the winner,
- b. Such Representation conveys in readily noticeable and readily understandable terms that the winner will not be known until some time in the future, that the conditions necessary to become a winner have not yet been fulfilled, or that it is not yet known whether the conditions have been fulfilled,

- c. Such Representation contains within it all material conditions needed to make it truthful and not misleading, including but not limited to the conditions that must be satisfied in order for the Recipient to be determined as the winner. All such conditions must be:
- (i) stated in readily noticeable and readily understandable terms,
  - (ii) presented in such a manner that they are an integral part of the Representation and not separated from the remainder of the Representation by intervening words, graphics, or colors or blank space in excess of a single horizontal space or the vertical distance between two lines which are single spaced,
  - (iii) made in terms, syntax, and grammar that are as simple and easy to understand as those used in the Representation, and
  - (iv) presented in such a manner that they appear in not less than 100% of the type size and in the same type face, color, style, and font as the remainder of the Representation.

A general Representation, such as that an entry is necessary to win, that is clearly applicable to all Recipients of the communication is not subject to the requirements of this subparagraph.

- d. Neither such Representation nor any conditional phrases, terms, or statements necessary to make it truthful uses the present or past tense in referring to the Recipient as a winner, or otherwise Represents that the Recipient is presently a winner or has already won.

- e. Such Representation does not Represent that the Recipient has already won, is a winner, definitely will win in the future, or has a greater likelihood of being declared the winner than he or she actually has.
- f. Such Representation is not presented in such a way as to cause a likelihood of confusion or misunderstanding as to Recipient's status as a winner or possible winner.

15. Representations Relating to Potential Winning or Enhanced Status.

- a. PCH shall not Represent to a Recipient that
  - (i) he or she will win, is likely to win, is close to winning, or that his or her winning is imminent;
  - (ii) he or she has been specially selected to receive a Sweepstakes entry opportunity;
  - (iii) he or she is among a select group with an enhanced chance of winning a Prize, or is more likely to win than other entrants in that group; or
  - (iv) the elimination of other persons has enhanced his or her chances of winning a Prize (other than by reason of the failure of others to enter).
- b. PCH shall not Misrepresent that the Recipient is receiving individualized attention from PCH in connection with winning a Prize.
- c. Without in any way limiting the scope of the foregoing, the following acts and practices are deemed to violate this prohibition:

- (i) Using any document or device relating to the Recipient or the Recipient's winnings, including but not limited to any press release, disclosure authorization, or publicity permission form concerning the Recipient, or any attorney letter or tax advice relating to the Recipient's Prize winnings, the provision of which Represents that the Recipient is closer to winning than is in fact the case because the Recipient is being furnished documents or devices of that nature.
- (ii) Using (a) any simulated check or other payment device designating the Recipient as a winner, a likely winner, the payee, or likely beneficiary of a Prize; or (b) any commercial or financial form, legal instrument or ownership document, relating to the Recipient or the Recipient's winnings, in such a manner as to Represent that the Recipient is the winner or a likely winner of a Prize because the Recipient is being furnished items of that nature.
- (iii) Requesting information or action from the Recipient that would be of use or is Represented as being of use in the event the Recipient has won a Sweepstakes Prize unless the Recipient has been determined to be the winner of the Prize.  
  
Examples of prohibited requests include, but are not limited to:
  - (a) A request for information concerning the Recipient's whereabouts at the time the Prize is to be awarded.
  - (b) A request for information concerning the Recipient's preferences for events relating to the awarding of a Sweepstakes Prize.
  - (c) A request for the Recipient to execute a document or agreement, such as a release, publicity document, or a confidentiality agreement, that

creates or is Represented to create duties, obligations, or other commitments arising out of or related to the awarding of a Sweepstakes Prize.

- (d) A request for information concerning the Recipient's preferences regarding characteristics of the Prize to be awarded, such as the color of a vehicle unless:
  - (1) either (a) such information is actually recorded and used by PCH or (b) the response to the request is clearly optional, and
  - (2) such request is presented in such a manner that it (a) is clearly being made of all Recipients of the communication, (b) does not Misrepresent the Recipient's chances of winning, and (c) includes the Clear and Conspicuous statement “You Have Not Yet Won. We Don't Know Who the Winner Is.”

So long as the request is otherwise in compliance with all of the foregoing provisions of this paragraph 15(c)(iii)(d) and the other provisions of this Consent Judgment, PCH may request information concerning the Recipient's eligibility to enter and win the Sweepstakes or the completion of an entry requirement or the use of a device that is required for entry.

- (iv) Using
  - (a) the terms “Tied,” “Tie Breaker,” “Guaranteed Winner,” “Endorsed to Win,” “Candidate to Win,” “Approved to Win,” “Guaranteed to Win,” “On Call to Win,” “Finalist” or “Final Round,” or

- (b) any term that Misrepresents that the Recipient has an enhanced status or position within a Sweepstakes superior to other timely entrants to describe any such status or position.
- (v) Representing that any Sweepstakes is an “instant win” contest or that a winner will be determined immediately unless either:
  - (a) in the case of a pre-selected number Sweepstakes, the matching of entries is performed as the entries are received by PCH and any winner is promptly announced, or
  - (b) in all other cases, there are procedures in place to monitor deliveries and identify and announce a winner promptly after receipt.
- (vi) Representing that the Prize Patrol is coming to the Recipient’s house to award a Prize, or using the Prize Patrol or any reference to the Prize Patrol to Misrepresent
  - (a) that the Recipient is receiving individualized attention from PCH in connection with winning a Prize,
  - (b) that the Recipient's winning is imminent,
  - (c) that the Recipient is more likely to win than is in fact the case, or
  - (d) that the Recipient is among a select group with an enhanced chance of winning a Prize.
- (vii) Representing that PCH or one or more of its representatives wish to be able to or may

communicate to the media, the public, or anyone else as to whether the Recipient placed an Order in connection with his or her winning entry.

- (viii) Representing that the Recipient should conceal the contents of any Sweepstakes Communication, or should not reveal the contents of any Sweepstakes Communication to any other person, or should not speak about the promotion or contest with anyone else.
- (ix) Representing that any communication has been sent by overnight mail, courier, express mail, special delivery, or any other form of expedited delivery or special handling when such is not the case, or otherwise suggesting the use of some delivery method other than the method actually used.
- (x) Representing, when such is not the case, that the contents of a mailed communication require the Recipient's urgent attention, that the mailing was "monitored," that the government played some role in approving or originating the mailing, or that the postal service or government provided any degree of heightened attention or protection to the mailing; provided that generalized requests for a prompt response shall not be deemed to violate this provision.
- (xi) Representing that the Recipient is the only person, or is one of only a few persons, to whom the communication has been delivered, when such is not the case, or  
  
Representing that the group of persons to whom the communication has been delivered is smaller than it actually is.
- (xii) Using a return address that
  - (a) Represents that the sender is not PCH or a licensee or tradename owned by

PCH,

- (b) that includes the name of an individual, department, or business function as the sender that does not exist or is not responsible for matters covered in the communication in question,
  - (c) Represents that the individual or department has any influence or ability to increase the likelihood that the Recipient is or would be a winner, or
  - (d) identifies the sender as PCH's Board of Judges.
- 
- (xiii) Using a scratch-off device that reveals information Representing that the Recipient was lucky to receive the scratch-off device, or that the information communicated by the device is determined by luck, when in fact all or substantially all Recipients received scratch-off devices bearing the same or substantially the same information.
  - (xiv) Representing that the Recipient shares characteristics with past Sweepstakes winners other than having entered.
  - (xv) Setting out the Recipient's name on a list of winners.
  - (xvi) Representing that the Recipient is lucky or is on a lucky streak.
  - (xvii) Using congratulatory expressions to Misrepresent that the Recipient has attained an improved or elevated status in the Sweepstakes or has an improved or elevated chance of winning the Sweepstakes or a Prize.

PCH may, if it offers a Prize that is only available to entrants from a specified communication(s) or a



specified group(s), state that fact if such statement is not otherwise false, misleading, or deceptive; does not Misrepresent the Recipient's likelihood of winning or Represent that the Recipient has an enhanced status in the Sweepstakes different from other persons to whom the Prize is offered; and Clearly and Conspicuously discloses the basis upon which such Prize will be awarded.

16. Representations Related to Prize. PCH shall not, in a Sweepstakes Communication in which it offers one or more items of the same or substantially the same value to all or substantially all Recipients of the communication:

- a. Represent that such items are Prizes or awards or are otherwise distributed by chance,
- b. Use the terms Sweepstakes, win, or drawing to describe the process by which such items will be distributed or otherwise Represent that such process involves a distribution by chance, or
- c. Use the terms winner, luck, lucky, or congratulations to describe the Recipient or otherwise Represent that the Recipient is fortunate in having been selected to receive the item or has a special status in the distribution.

Subject to subparagraphs a through c above, PCH may Represent that the items to be received by all timely entrants are gifts, or terms of like meaning and import, and may describe the actual process by which such items are distributed.

17. Representations Contrary to Random Winner-Selection Process. PCH shall not Represent that a Sweepstakes Prize will or may be awarded in a non-random manner or that any entry has, will have, or may have any advantage over other timely entries in a Sweepstakes. PCH shall not Misrepresent the likelihood of the Recipient winning any Sweepstakes or Prize.

18. Representations of Personal Feelings. PCH shall not Misrepresent in a Sweepstakes

Communication in relation to any Sweepstakes, Prize, or entry, that its employees or others acting on its behalf, real or fictitious, have personal feelings concerning or a personal relationship with the Recipient of the communication, including, but not limited to, Representations that:

- a. they have a shared interest with the Recipient,
- b. they have any belief, feeling, or opinion relating specifically to the Recipient, such as the Recipient deserves to win,
- c. they have taken or refrained from taking or will take or will refrain from taking any action relating specifically to concerning the Recipient.

The foregoing does not prohibit general expressions of good will towards or interest in Sweepstakes participants or customers as a group.

19. Fictitious Events or Things. PCH shall not Represent in a Sweepstakes Communication, as personalized dramatizations of its business processes or winner-selection methodologies or otherwise, the following:

- a. fictitious conversations, meetings, events, or actions purporting to have taken place and relating specifically to the Recipient, including without limitation conversations between or meetings of employees or representatives of PCH relating specifically to the Recipient, or
- b. fictitious conversations, meetings, events, or actions purporting to be set in the future and relating specifically to the Recipient where such events are unlikely to occur, or

- c. fictitious documents purportedly prepared or drafted for possible future use which relate specifically to the Recipient including without limitation internal documents, reports, and communications between PCH and others that pertain to the Recipient.

20. Representations Related to Ordering Giving an Advantage in the Winner Selection Process.

PCH shall not Represent that a purchase is necessary to enter or win a Sweepstakes or that ordering improves the Recipient's likelihood of winning. Without in any way limiting the scope of the foregoing, the following acts and practices are deemed to violate this provision:

- a. Representing that an Order or a person's Order history has resulted in, will result in, or may result in any special, different, or enhanced status in a Sweepstakes or with PCH relating to a Sweepstakes.
- b. Representing that past winners had ordered Merchandise or that past winners' ordering history increased their chances of winning.
- c. Representing that a person's ordering history enhances the likelihood of winning, such as through report cards, performance reviews, and winner profiles.
- d. Representing that a person who enters and Orders will or may be eligible to receive additional Prizes or more likely to win than a person who enters but does not Order, or that a person who enters and Orders will or may be given any advantage over a person who enters but does not Order.
- e. Representing that a person who enters but does not Order will or may receive fewer Prizes or be less likely to win than a person who enters and Orders, or that a person who enters but does not Order will or may be subjected to any disability or disadvantage to which a person who enters and Orders would not be subjected.

- f. Representing that persons who Order will or may receive or be more likely to receive future communications containing Sweepstakes entry opportunities than those who fail to Order, or that a communication containing an entry opportunity was or was not received because the Recipient did or did not Order in the past, provided that PCH may Represent:
- (i) that specific product offers are being offered or will or may be offered to the Recipient based on his or her actual Order activity and indicated interest in such products, or
  - (ii) that the Recipient has qualified or will qualify for special discounts or product offers or customer privileges with respect to purchasing by reason of actual Order activity.
- g. Representing that persons who fail to Order will or may not receive or will or may be less likely to receive future Sweepstakes entry opportunities, or that a communication was not received because the Recipient failed to Order in the past.
- h. Offering in any sales solicitation or billing effort any opportunity to enter a Sweepstakes that is or appears to be available only to persons who have previously Ordered or paid for products (“Customer-Only Sweepstakes”) unless in accordance with the following:
- (i) No present or future purchase is required to enter the Customer-Only Sweepstakes, and no Representation to the contrary is included in such communication;
  - (ii) No Representation is made to the Recipient that he or she would, by Ordering,

qualify to receive an opportunity to enter Customer-Only Sweepstakes in the future;

(iii) Such Customer-Only Sweepstakes are offered only infrequently and irregularly; and

(iv) Such Customer-Only Sweepstakes are not presented in such a manner as to give rise to an expectation that such opportunities will be available in the future.

i. Representing that membership in a club in which membership is or appears to be based on Orders or Ordering history, such as, without limitation, the President's Club or the President's Gold Club, increases or may increase the Recipient's likelihood of winning a Sweepstakes or a Prize, or enhances or may enhance the Recipient's eligibility for additional Sweepstakes, Prizes, or entry opportunities.

21. Representations Related to Preexisting Entries. PCH shall not Represent that the Recipient's failure to respond to a communication will or may result in the forfeiture or other loss of any previous valid entry or loss of any Prize to which the Recipient is or may be entitled, or Misrepresent that failure to timely return an entry will or may result in a loss of opportunity to enter the same Sweepstakes by response to another mailing or by an alternative method of entry.

22. Representations Related to Payment of Invoices. PCH shall not Represent to a Recipient that his or her payment history, failure to pay an invoice or payment of an invoice will or may affect the Recipient's likelihood of winning a Sweepstakes or eligibility for a Sweepstakes.

## **B. Business Practices -- Required Disclosures**

23. Remedial Advertising in Sweepstakes Communications. (The State of Tennessee and PCH

agree this paragraph deals with consumer education by PCH and is not intended to be interpreted as injunctive relief.) For a period of two (2) years, commencing with the Effective Date, PCH shall include one of the remedial messages set forth below on the front side of the Order device, the front side of the primary letter, or the front side of the Sweepstakes Facts insert in each Sweepstakes Communication delivered by mail that contains an opportunity to Order Merchandise. The message must be Clear and Conspicuous, and PCH shall use each remedial message an equal number of times by changing the remedial message approximately every third mailing.

- a. “What’s wrong with this word: GNIYUB? That’s right! It’s backwards. And if you think that you need to buy in Order to win a Sweepstakes, that’s backwards too. No purchase has ever been necessary to enter and win a PCH Sweepstakes. In fact, it would not be lawful to require a purchase to enter a Sweepstakes, and we don’t want you to purchase a product unless it is right for you.”
- b. “Does buying help you win? Absolutely not! In fact, many of our winners have been non-purchasers. They won and they didn’t buy a thing! Here’s how it works. When your Sweepstakes entry comes to PCH, it doesn’t matter whether you have purchased anything or not (either this time or in the past). It is luck - not purchasing - that determines who wins!”
- c. “Do you know the law about Sweepstakes? Buying will not help you win. In fact, in any lawful Sweepstakes, all entries have an equal opportunity to win. So it doesn’t make any difference whether or not you purchased. It is all the luck of the draw.”

24. Sweepstakes Facts Disclosure. The Sweepstakes Facts Disclosure shall consist of a box containing the Prize Data Grid (“Prize Data Grid”) and the four Sweepstakes Facts Messages (“Sweepstakes Facts Messages”).

- a. The Prize Data Grid shall appear as set forth in Exhibit A hereto and contain the following matter and no other:
- (i) A heading entitled “Sweepstakes Facts” printed above the Prize Data Grid in boldface type at least 125% the size of that type which shall appear within the Prize Data Grid.
  - (ii) The Prize Data Grid containing the following information:
    - (a) a column identifying all major Prizes (including at least the Prize of greatest value for each Sweepstakes into which entry is offered in that communication and any other Prize specifically identified in the communication), and
    - (b) a column identifying, if not identical to the identification of the Prize, the Prize’s value, and, if applicable, the quantity of the Prize or Prizes to be awarded in this category,
    - (c) a column stating the numerical Odds of Winning the Prize as a 1 in “n” ratio, and
    - (d) a column stating the Sweepstakes End Date.
  - (iii) The Sweepstakes End Date means the last date by which any entry may be received in the particular Sweepstakes identified in the Prize Data Grid. Such date may be no more than thirty (30) days before the winners are selected. In the event a Sweepstakes Prize may be awarded before the Sweepstakes End Date, PCH may indicate that fact by placing a footnote on the Sweepstakes

Facts Disclosure which shall state “Winner may be determined earlier. See Official Rules for Details.” and PCH shall provide in the Official Rules a readily understandable explanation of any winner-selection process that may determine the winner before the Sweepstakes End Date.

- (iv) In addition to the above information, PCH may also include in the Prize Data Grid the name or identifying number of any Sweepstakes into which entry is offered, as well as the winner-selection method presented in separate columns so long as the information contained within each column in the box remains clearly distinct and can be easily read.

b. The Sweepstakes Facts Messages contain the following four statements, each presented as its own paragraph separate from the other paragraphs and with the caption of each paragraph set in boldface type so as to contrast with the remainder of the message:

- (i) **You Have Not Yet Won. All Entries Have the Same Chance of Winning.**

The winner has not been identified. We don't know who the winner is. If you enter our Sweepstakes, your entry will have the same chance to win as every other entry.

- (ii) **Enter for Free.** You don't have to buy anything to enter. Just mail the entry form included in this mailing or follow the instructions in the Official Rules.

- (iii) **Enter As Often As You Like.** You don't have to wait for us to mail you an entry form. You may submit additional entries simply by writing us at: [specify address]. Each time you write to us you will be entered once in each ongoing Sweepstakes. Each entry request must be mailed separately.



(iv) **Buying Won't Help You Win.** Your chances of winning without a purchase are the same as the chances of someone who buys something. It would not be lawful to give any advantage to buyers in a Sweepstakes.

c. The Sweepstakes Facts Prize Data Grid shall be placed immediately above the Sweepstakes Facts Messages and the content of the Sweepstakes Facts Disclosure shall be presented so as to be Clear and Conspicuous and not overlaid with any graphic design, text, or color from outside the Disclosure except as permitted in paragraph 26.

25. Sweepstakes Facts Disclosure Insert. PCH shall include in all personalized Sweepstakes Communications containing Sweepstakes entry opportunities or offering Merchandise for sale and all other Sweepstakes Communications that contain both a Sweepstakes entry opportunity and an offer of Merchandise for sale the Sweepstakes Facts Disclosure insert. The Sweepstakes Facts Disclosure, consisting of the Prize Data Grid and the Sweepstakes Facts Messages, shall be stated Clearly and Conspicuously in accordance with the format of Exhibit "A" attached hereto, the requirements of paragraph 24 above, and the following:

- a. The Sweepstakes Facts Disclosure shall appear on a separate free-standing insert.
- b. The insert shall contain no other matter on the side bearing the Sweepstakes Facts Disclosure, except as permitted by paragraph 23, and on the reverse side no matter other than the PCH logo, company name, address, copyright symbol, the Official Rules, consumer and customer service information (such as refund policies, return procedures, and no purchase necessary messages), or any combination thereof.
- c. The insert may not be folded so as to split the Sweepstakes Facts Box unless folding is necessary to insert it into the envelope in which it is mailed. If the insert is folded, it shall

be folded with the Sweepstakes Facts Disclosure facing out.

- d. The minimum type size for all text on the insert will be no less than twelve (12) point type, except for the “Sweepstakes Facts” heading which shall be 125% larger or, in the case of 12-point type text, 15-point type.

26. Disclosures in Rules. PCH shall Clearly and Conspicuously disclose in the Official Rules the Sweepstakes Facts Disclosure. The Sweepstakes Facts Disclosure, consisting of the Prize Data Grid and the Sweepstakes Facts Messages, shall be stated in accordance with the format of Exhibit “A” attached hereto, the requirements of paragraph 24 above, and following:

- a. The content of the Sweepstakes Facts Disclosure, except for the heading “Sweepstakes Facts,” shall be printed in a type size that is at least
  - (i) 8-point type, in communications mailed in an outer envelope of the size of a standard #10 business envelope or less, or
  - (ii) 10-point type, in communications mailed in larger outer envelopes, and in a font and type size that is at least as prominent as that contained in the text of the Official Rules, and shall otherwise be presented in the manner described in paragraph 24 above.
- b. The Sweepstakes Facts Disclosure shall be clearly distinct from any other matter and separated by at least 1/8 inch of clear space from any other matter.
- c. The Sweepstakes Facts Disclosure shall contain no matter other than that contemplated or prescribed by Exhibit A hereto and paragraph 24 above, and will not be overlaid with any graphic design, text, or color from outside the box.

- d. The background of any box appearing in the Official Rules shall be in a color or shade that contrasts with that of the surrounding area and which contrasts with the text in the box in such a manner that the text is clearly distinct from the background and easily read.

27. Official Rules. Official Rules shall be included in all Sweepstakes Communications including Sweepstakes entry opportunities. The Official Rules shall be prominently identified by the words “Official Rules” or the like, and all references to the Official Rules shall be consistent within the Sweepstakes Communication. The Official Rules or a copy of them shall be placed so that they may be retained by the Recipient after responding, and, in any case in which the Official Rules appear on an entry or Order form, they shall include a Clear and Conspicuous statement as to where a retention copy may be found.

28. Disclosures in Sweepstakes Communications. PCH shall, at a minimum, Clearly and Conspicuously disclose in all Sweepstakes Communications, including opportunities to enter and Order, messages to the effect that no purchase is necessary to enter and that a purchase will not improve a person's chance of winning, in each case,

- a. on the face of the Entry Device or Order device, as provided herein, in all communications that include either device;
- b. in the Official Rules, and
- c. in at least one other place in the communication.

29. Internet Disclosures. This agreement shall apply as fully as practicable to communications via the Internet, including E-mail and Internet web pages. To the extent that placement or formatting

requirements for certain disclosures imposed herein cannot be complied with in this electronic medium, the following provisions will control:

- a. In Sweepstakes Communications containing an entry opportunity delivered via e-mail, the disclosures required in paragraph 24 above and set out in Exhibit A shall be made in the text of the E-mail itself. In Sweepstakes Communications containing an entry opportunity presented on a web page, the disclosures required in paragraph 24 above and set out in Exhibit A shall be made on the web page itself or by link to a PCH web page containing only those disclosures, provided that such a link must Clearly and Conspicuously identify what information is to be found at the link, *e.g.* Sweepstakes Facts, or Official Rules.
- b. The provisions of this Consent Judgment pertaining to the method of entry and disclosures required thereon, shall be modified to be consistent with the methods of entry permitted under the Official Rules of the Sweepstakes offered in the communication. In the context of a web page, such disclosures shall be arranged substantially as described in paragraph 24 and Exhibit A, and the availability of such disclosures shall be disclosed to viewers of PCH's web site prior to their placing an Order or entering a Sweepstakes and shall be presented to viewers by means of a conspicuous icon clearly identified as "See Sweepstakes Facts" which appears on the web site's homepage, on all Order pages and on all entry pages, and the availability of the Official Rules shall also be clearly disclosed and identified as "Official Rules."

**C. Business Practices -- Conduct of Skill Contests and Sweepstakes**

30. Skill Contests. PCH shall not offer a Skill Contest in any Sweepstakes Communication. PCH shall not mail a Skill Contest offer into any State in which Skill Contests are not legal.

31. Identification of Premiums and Bonuses. PCH shall not Misrepresent the nature, attributes or value of any Premium or Bonus. Without in any way limiting the scope of the foregoing, PCH shall Clearly and Conspicuously disclose in any Sweepstakes Communication delivered by mail that includes a Premium or Bonus offer:

- a. The identity and retail value of all Premiums offered in the Sweepstakes Communication; and
- b. The nature and maximum retail value of any Bonus offered in the Sweepstakes Communication where some Representation is made as to its nature or value; provided that the foregoing shall not prohibit a “mystery” Bonus or similar promotions in which no Representation as to the specific identity of any particular item or the value of the item is made, as long as PCH Clearly and Conspicuously discloses in any such “mystery” Bonus offer the maximum retail value of the highest valued item available.

32. Representations of Chance in Premium and Bonus Offers. PCH shall not offer a Premium or Bonus in any Sweepstakes Communication delivered by mail if there is or is Represented to be any element of chance involved in the selection of the items to be received.

- a. For the purposes of this paragraph, an element of chance will be deemed to be involved in the selection if:
  - (i) The offer includes a Premium or a Bonus for which a payment or purchase of some designated amount or item does not ensure receipt,
  - (ii) The conditions for receiving a Premium or Bonus are not Clearly and Conspicuously disclosed, or

- (iii) The identity of the Premium or Bonus for which the Recipient is eligible is not Clearly and Conspicuously disclosed,

b. provided that no material element of chance will be deemed to be involved if:

- (i) in respect to any Premium, the only uncertainty involves which of a number of items of comparable value, the identity and value of each of which is clearly disclosed, the Recipient will receive, or
- (ii) in respect to any Bonus, the offer is a “mystery” or similar promotion offering a Bonus in which no Representation as to the specific identity of any particular item or the value of the item is made and the maximum possible value of the Bonus is Clearly and Conspicuously disclosed.

33. Method of Entry. In all Sweepstakes Communications that offer entry into a Sweepstakes, PCH shall provide only devices, forms, or other mechanisms for entering the Sweepstakes (“Entry Form(s)”) that may be used by all entrants. PCH may include on an Entry Form an offer for Merchandise or include any form, device, or mechanism for Ordering Merchandise (“Entry/Order Form”), so long as it complies with the terms of this provision. Except for the inclusion of such offer of Merchandise or form, device, or mechanism for Ordering Merchandise, PCH shall not distinguish any Entry Forms, or instructions relating to their use, based on whether a purchase is being or has ever been made by the entrant. Additionally, PCH shall not make any distinction in any response method to be used by any entrant in entering a Sweepstakes, such as through the use of different reply envelopes, the direction of responses to different addresses or departments, or the appearance of any distinction on a reply envelope. If PCH offers an Entry/Order Form, it shall comply with the following terms:

- a. Such Entry Form shall provide a mechanism or require an act for Ordering Merchandise

that is separate and different from the mechanisms and acts required for entering a Sweepstakes. PCH shall not automatically enter any person into a Sweepstakes based on the placement of an Order.

- b. All Order-related material (the “Order-related portion”) included on any Entry Form shall be clearly marked and graphically separated from all Sweepstakes-related material (the “Sweepstakes-related portion”) thereon. The Order-related portion shall be presented in such a manner as to distinguish as optional the placement of any Order in response to the communication.
- c. PCH shall Clearly and Conspicuously disclose on the Entry Form that the completion or use of the Order-related portion is optional to the use of the Sweepstakes-related portion, state the disclosures described in paragraph 28, and include a Clear and Conspicuous reference to the location of the Sweepstakes Facts. Additionally, for a term of three years following the Implementation Date of this Judgment, PCH shall Clearly and Conspicuously state “Buying Won't Help You Win” in proximity to the Order-related portion. In a Sweepstakes Communication offering an Order and entry opportunity which is made through E-mail or through an Internet web page, the disclosures required by this paragraph shall be Clear and Conspicuous and presented in such a manner as to distinguish as optional the placement of any Order in response to the communication.
- d. Any form, device, mechanism, or instructions related thereto, offered for use in placing an Order shall be easily distinguishable from all forms, devices, mechanisms or instructions relating to entering a Sweepstakes and shall Clearly and Conspicuously Represent that ordering is optional.

34. Write-In Entries. In addition to any Entry Form offered by a Sweepstakes Communication,

PCH shall make available the opportunity to enter current ongoing Sweepstakes simply by writing to, or otherwise communicating with, PCH to request entry and may disclose such alternative entry methods in such Sweepstakes Communications.

35. All Entries to be Treated Equally. PCH shall not give any advantage to an entry in a Sweepstakes accompanied by an Order, or subject an entry not accompanied by an Order to any disadvantage.

36. Treatment of Non-Order Entrants. In all aspects of every Sweepstakes, PCH shall treat equally persons who enter but do not Order any Merchandise (“Non-Order Entrants”) and persons who both enter and Order (“Order Entrants”). PCH shall not impose any requirements, burdens, or expenses on Non-Order Entrants that are not also imposed on Order Entrants relative to their participation in any Sweepstakes. PCH shall not exclude Non-Order Entrants from any aspect of the Sweepstakes or other contest that is available to Order Entrants. Without in any way limiting the scope of the foregoing, the following acts and practices are deemed to violate this provision:

- a. Requesting or requiring any action, information or the return of any document from an Order Entrant that is not also requested or required of a Non-Order Entrant, unless the action, information, or document is reasonably necessary to process the Order or future Orders, or relates to the person’s interest in receiving future product offers, but only if such requests or requirements make no reference to any Sweepstakes, entry or Prize, or Represent any advantage in a Sweepstakes; or
- b. Requesting or requiring Non-Order Entrants to fulfill any requirement or perform any function, including providing information, that is not requested or required of Order Entrants.



37. Deadlines for Return of Sweepstakes Entries. PCH shall not Misrepresent the entry deadlines for any Sweepstakes or Sweepstakes entry included in a Sweepstakes Communication. Without in any way limiting the scope of the foregoing, PCH shall not, in a Sweepstakes Communication delivered by mail or by newspaper or magazine advertisement:

- a. Represent that any date other than the Sweepstakes End Date is the deadline for an entry unless the specific calendar date by which the entry must be received is set forth Clearly and Conspicuously in the communication.
- b. Represent that any date is the deadline for an entry unless entries that do not meet the deadline are treated as ineligible and PCH has procedures in place to identify and record such entries as ineligible.
- c. Misrepresent the deadline for entering a Sweepstakes or the importance or the need for promptness in responding.
- d. Represent that entries must be returned or other action must be taken by a certain deadline, where that deadline is different from the deadline for another Sweepstakes offered in the communication, unless the Representation identifies, Clearly and Conspicuously and in a readily understandable manner, the Sweepstakes to which the deadline applies.

38. Prize Description and Award. All Sweepstakes Communications including entry opportunities shall Clearly and Conspicuously describe the Prize offered, the deadline for entering to win the Prize, the Prize award date, and the name or identifying number of the Sweepstakes or other contests under which the Prize is being offered. No description of any Prize contained in a Sweepstakes Communication shall conflict with the terms of or the description of that Prize in the Official Rules included in that communication. PCH shall award all Prizes as offered.

39. Preselected Numbers. In any Sweepstakes promotion using a preselected winning number, PCH shall ensure that the preselected number is among the numbers actually mailed to potential entrants prior to the end of the Sweepstakes promotion and shall select a winner, by alternate method, on the Sweepstakes end date or Prize award date in the event that the preselected number is not returned.

**D. Business Practices -- Billing And Payment Processing**

40. Invoices. PCH shall disclose on the invoice sent to consumers ordering magazine subscriptions the title(s) ordered and the duration of or number of issues in the subscription. For each product other than a magazine subscription, PCH shall disclose on the invoice the product ordered and the price. All invoices shall disclose the procedure for contacting PCH to exercise rights, if any, under its refund and return policy applicable to the subscription or product. If the product is one in a series of products to be delivered, the invoice shall also disclose that the product is part of a series and, if known, the total number of products in the series that will be shipped (e.g., “shipment 1 of 12”) or the timing of future shipments (e.g. “You will receive an item every month”).

41. Billing Cycles. Invoices subsequent to the initial Order acknowledgment and request for payment shall be issued only after a customer has had a reasonable amount of time (ordinarily not less than 20 days) to receive and pay the preceding invoice. All payments shall be posted promptly and in accordance with customary commercial standards.

42. Treatment of Duplicate Payments. Upon receipt from a customer of a duplicate or excess payment for a magazine Order, the customer will be promptly notified with an opportunity to request a refund or have the subscription extended and, upon receipt from a customer of a duplicate or excess payment for a product Order, the duplicate payment will be applied to the open balance on another purchase or promptly refunded.

43. Complaint Handling. PCH shall establish a state liaison whose responsibilities include resolving issues referred by state law enforcement agencies. PCH shall promptly respond to consumer complaints, including but not limited to complaints concerning Merchandise Orders, billing, billing statements and collections.

44. Refund Policy. Each Sweepstakes Communication containing Order opportunities and each Order acknowledgment or initial invoice shall Clearly and Conspicuously disclose PCH's refund policy. PCH's refund policy shall, at a minimum, require PCH to provide a full refund of the amount paid, including related shipping and handling charges, if the customer returns the Merchandise within the stated refund period.

45. Toll-Free Customer Service Telephone Numbers. Toll-free customer service telephone lines shall be maintained and made available by PCH such that consumers may call to obtain answers to questions and assistance with problems. The toll-free number shall appear on all Sweepstakes Communications including entry opportunities and on all Order acknowledgments. The toll-free number shall have a commercially reasonable number of toll-free lines and be staffed during normal business hours. PCH's website will continue to include an E-mail address to which service-related electronic communications may be transmitted to the company. The toll-free number shall be available through Toll-Free Directory Assistance.

#### **E. Business Practices -- Protection of Consumers**

46. Identification of Customers Who May Be Vulnerable

- a. As soon as practicable, but not later than 90 days, after the Effective Date of this Consent Judgment, PCH shall identify each person shown on its records with an address in the State with paid Orders from Sweepstakes Communications including Order opportunities of over \$1000 in 1996, over \$1000 in 1997, over \$1500 in 1998,

and over \$2000 in 1999 (“1996-1999 High Activity Customers”). Any such person so identified as a 1996-1999 High Activity Customer in any three of those four years shall be marked on PCH's promotion file as an account not to be mailed Sweepstakes Communications including Order opportunities (“suppressed”) and no such person shall be returned to an active mailing category for receipt of Sweepstakes Communications including Order opportunities unless and until the Special Compliance Counsel determines through the use of a survey to be conducted by a competent and independent third party approved by, and under the direction and control of, the Special Compliance Counsel that the person is not generally confused or disoriented, does not persist in the belief that buying will help him/her win, and is not making excessive purchases in relation to his/her means.

- b. As soon as practicable, but not later than 90 days, after the Effective Date of this Consent Judgment, PCH shall identify for the twelve-month period commencing with January 1, 2000, and ending with December 31, 2000, each person shown on its records with an address in the State with paid Orders from Sweepstakes Communications including Order opportunities of \$2000 or more for magazines and Merchandise combined for the period. All such persons shall be suppressed, and no such person shall be returned to an active mailing category for receipt of Sweepstakes Communications including Order opportunities unless and until the Special Compliance Counsel determines that such communications are appropriate for the person via the survey method described in subparagraph 46(a).
- c. For the six-month period commencing with January 1, 2001, and ending with June 30, 2001, PCH shall within 30 days after the end of the period identify each person shown on its records with an address in the State with paid Orders from Sweepstakes Communications including Order opportunities of \$1250 or more for magazines and Merchandise combined for the period. All such persons shall be suppressed, and no

such person shall be returned to an active mailing category for receipt of Sweepstakes Communications including Order opportunities unless and until the Special Compliance Counsel determines that such communications are appropriate for the person via the survey method described in subparagraph 46(a).

- d. PCH shall, on or before January 31, 2002, identify each person shown on its records with an address in the State with paid Orders from Sweepstakes Communications including Order opportunities of \$2000 or more for magazines and Merchandise combined for the period from January 1, 2001 through December 31, 2001. All such persons shall be suppressed, and no such person shall be returned to an active mailing category for receipt of Sweepstakes Communications including Order opportunities unless and until the Special Compliance Counsel determines that such communications are appropriate for the person via the survey process described in subparagraph 46(a).
- e. As soon as is practicable after the Effective Date of this Consent Judgment, but in any event on or before January 1, 2002, an independent expert retained by the Special Compliance Counsel shall oversee the development of a statistical model (the “High Activity Classification Model”) by the Settling States and PCH to identify persons who are not appropriate Recipients of Sweepstakes Communications with Order opportunities. The Settling States are entitled to be advised, at their own expense which may be reimbursed from the funds recovered pursuant to paragraph 56 herein, by their own expert regarding this development. On approval of the High Activity Classification Model by PCH and the State, said approval not to be unreasonably withheld by either party, PCH shall adopt and implement the High Activity Classification Model as the sole and exclusive method for purposes of suppressing consumers who are inappropriate Recipients shown on its records with an address in the State.
- f. In the first calendar quarter of 2003 and the first calendar quarter of each year

thereafter, PCH shall identify all customers with paid Orders from Sweepstakes Communications including Order opportunities of \$1000 or more for magazines and Merchandise combined within the preceding twelve-month period and apply the High Activity Classification Model to them.

- (i) All such customers with model scores that predict a likelihood of being inappropriate Recipients of Sweepstakes Communications with Order opportunities shall be suppressed.
- (ii) All relevant information used in developing and applying the High Activity Classification Model, or any instrument used to replace it, shall be made available to the Special Compliance Counsel, and upon request and for the purpose of developing and implementing the High Activity Classification Model or evaluating its performance, to PCH, a single Settling State, or group of Settling States, or its or their designees, subject to a mutually agreeable confidentiality agreement binding on the Recipient of the information and its or their agents limiting the use and dissemination to the purpose stated above.
- (iii) In the unanticipated and unlikely event that PCH and the State do not agree upon the High Activity Classification Model, PCH shall identify each person shown on its records with an address in the State with paid Orders from Sweepstakes Communications including Order opportunities of \$2000 or more in the prior calendar year and determine if the person is appropriate for receipt of Sweepstakes Communications including Order opportunities via the survey process described in subparagraph 46(a). All persons determined to be generally confused or disoriented, or who persist in the belief that buying will help him/her win, or who are making excessive purchases in relation to his/her means shall be suppressed. In addition, each person shown on PCH's records

with an address in the State with paid Orders from Sweepstakes

Communications including Order opportunities of \$5000 or more in the prior calendar year shall be suppressed.

- g. Separately and independently, PCH shall institute a system that will permanently suppress on a monthly basis all customers referred by any Attorney General's Office to the Special Compliance Counsel for suppression, provided that the Special Compliance Counsel will review such referrals when received. If the Special Compliance Counsel's review indicates that suppression is not warranted, he may confer with the Attorney General regarding his findings, which the Attorney General may either accept or reject and insist upon the suppression.
- h. Any customer who has been suppressed prior to the Effective Date of this Judgment by PCH or pursuant to any term of this Judgment, may request reinstatement, but shall be restored to an active mailing category only upon verification by the Special Compliance Counsel pursuant to the survey process described in subparagraph 46(a). PCH may not offer, solicit, or in any way invite such requests.
- i. On January 1, 2004, and on each succeeding January 1, the paid Order Dollar Thresholds described in this paragraph 52 shall be increased to take into account the increase in the Consumer Price Index and exclude any single item Merchandise Order in excess of \$500 and the resulting amount shall be the new Dollar Threshold for the ensuing year. Specifically on or before December 15 the Special Compliance Counsel shall determine the increase in the CPI from the preceding year by deriving a fraction, the numerator of which shall be the CPI as of September 30 of the year in which the computation is being made, and the denominator of which shall be the CPI as of September 30 of the preceding year. The resulting fraction shall be multiplied by the Dollar Threshold for the year in which the computation is made and the resulting amount

shall be the Dollar Threshold for the ensuing year. For purposes of the preceding computation the term CPI shall mean the Consumer Price Index for All Urban Consumers as published by the United States Bureau of Labor Statistics or any successor index. By way of example, but not limitation, if the CPI as of September 30, 2003, was 172 and the CPI as of September 30, 2002, was 168, then the Dollar Threshold for calendar year 2004 would be  $172 \div 168 = 1.0238095$  X \$1000 = \$1023.81.

- j. All personally identifiable information resulting from the survey process described in subparagraph 46(a), or any surveying done to verify and improve the High Activity Classification Model pursuant to paragraph 46(e), shall be held by the Special Compliance Counsel in strictest confidence and may only be made available to PCH, a single Settling State, or group of Settling States, or its or their designees, for the purpose of developing and implementing the High Activity Classification Model or evaluating its performance, subject to a mutually agreeable confidentiality agreement binding on the Recipient of the information and its or their agents limiting the use and dissemination to the purpose stated above. In the event PCH assumes the duties of Special Compliance Counsel as described in subparagraph 46l below, the above-described information shall be used by PCH only for the purposes stated in this subparagraph.
- k. Notwithstanding any other provision of this Judgment, the Special Compliance Counsel shall provide to any Attorney General of any Settling State, upon written request, the names and addresses of each person shown on PCH's records with an address in his or her State who has been suppressed, or who has paid Orders from Sweepstakes Communications including Order opportunities of \$2500 or more in the calendar year prior to the year in which the request is made, and their status as suppressed or not suppressed.



- l. In the event PCH does not retain Special Compliance Counsel following the expiration of the requirement set forth in paragraph 52 below, then PCH may assume the surviving duties described by this paragraph 46.

47. Treatment of Orders from Suppressed Persons. Once a person has been permanently suppressed from PCH's mailing lists in accordance with paragraph 46, PCH shall do all of the following:

- a. reject all Orders placed by the suppressed person after suppression,
- b. refrain from billing the suppressed person for Orders placed after suppression, and
- c. automatically refund any monies received from the suppressed person for payment of Orders placed after suppression.

48. List Rental. PCH shall ensure that the names of all customers to whom communications are discontinued pursuant to paragraph 46 above are removed from all lists made available by PCH for sale or rental to others.

49. Do Not Contact Requests. PCH shall include in each Sweepstakes Communication including entry opportunities a Clear and Conspicuous statement of the procedure by which a Recipient's name may be removed from the company's active mailing list. This procedure shall include acceptance of "do not contact" requests made by telephone call to a toll-free number identified in the notice or by mail to an address identified in the notice. PCH shall accept "do not contact" requests made directly by the Recipient or made on behalf of the Recipient by a guardian, conservator, primary caregiver, family member, or legal representative, or made, in writing, by the State's Attorney General. PCH shall add the name and address provided in any such request, together with all variations of the name and address on its list that PCH can, with reasonable diligence, determine would result in delivery of a communication to the person, to the "do not contact" list. PCH shall exclude the names and addresses

on such “do not contact” list from all lists of names and addresses used to select Recipients for PCH Sweepstakes Communications (other than billing and collections communications for open Orders and Customer Service communications which contain no Sweepstakes promotional material or entry opportunities). PCH shall not include in any other communications inducements to request removal from the “do not contact” list. PCH shall not accept any Orders from such person in the name and at the address on its “do not contact” list whose “do not contact” request was made on behalf of the Recipient by a guardian, conservator, primary caregiver, family member, or legal representative or the State’s Attorney General. PCH shall maintain a record of all such “do not contact” requests in such form or forms as shall permit the permanent suppression of such names and addresses from future Sweepstakes Communications. Any such request shall be given effect by PCH not less than forty-five (45) days after receipt and shall remain in effect until PCH receives notice to the contrary from the Recipient or any such other person; provided that, in any case in which the original request was made by a legal representative of the person or the State’s Attorney General, the request shall be changed only upon notice from the same or another legal representative or the Attorney General, respectively. PCH shall ensure that any name and address on its “do not contact” list is removed from all lists made available by PCH to others for marketing purposes. PCH shall exercise reasonable diligence to ensure that the names and addresses on its “do not contact” list are suppressed from each and every new list obtained, rented, or used by PCH before any Sweepstakes Communication is sent to the names and addresses on the new list.

50. Payment for Failure to Comply with Do Not Contact Requests. In any instance in which PCH, after the period allowed by paragraph 49 hereof, selects the name and address of a person in connection with whom a “do not contact” request has been submitted in accordance with paragraph 49 to receive a communication in violation of that paragraph, and the person actually receives the communication from PCH in the name and at an address variation which reasonable diligence on the part of PCH would have identified, PCH shall pay five hundred dollars (\$500.00) as directed by the State.

51. Duplicate Names. PCH shall employ reasonable diligence to remove from its mailing lists duplicate accounts for consumers (i.e., names and addresses that can be ascertained from the information known to PCH to relate to the same consumer), and prevent the reappearance of such duplicates, which shall include at least the following:

- a. PCH shall process all incoming names and addresses from rented lists using industry standard or better software designed to identify duplicate households (such as the currently used Acxiom software) and eliminate any individuals found to duplicate other rented names or to match an individual on its current customer database;
- b. PCH shall perform address standardization and matching of all incoming Orders from prospect mailings against its current customer database to identify and eliminate any duplicate records;
- c. PCH shall at least four times a year perform address correction of its current customer database using industry standard or better software, which may be that which at present is certified by the United States Postal Service, to ensure that customers' postal code and area of residence are consistent and up to date; and
- d. PCH shall at least twice a year update its current customer database using a licensed supplier of the National Change of Address (NCOA) file provided by the Postal Service to identify and update the records of individuals on its current database who have changed their addresses.

52. Compliance Counsel.

- a. PCH shall engage a law firm of national standing and recognized competence in the area, which may be Venable, Baetjer, Howard & Civiletti, to act as Special

Compliance Counsel in respect to this Consent Judgment. PCH shall ensure that Special Compliance Counsel has the following authority and is adequately empowered to assume the following duties and responsibilities:

- (i) Monitoring PCH's compliance with the terms of this Consent Judgment, applicable state and federal laws, and PCH's internal promotional, billing, and collection policies and procedures;
- (ii) Reviewing and approving for use PCH's Sweepstakes mailings and other promotional materials;
- (iii) Monitoring PCH's Customer Suppression program as established under the terms of this Judgment;
- (iv) Conferring periodically with PCH's General Counsel and Director of Consumer Affairs, who are PCH's principal compliance officers, and with PCH's Chief Executive Officer, regarding PCH's compliance efforts;
- (v) Making recommendations to PCH and its executives concerning improvements to its promotional, billing, and collection policies and procedures and its consumer education and protection programs;
- (vi) Providing direct liaison to the Settling States with respect to any consumer complaints, requests, or inquiries, any requests or inquiries of the Settling States, and any other matters arising from this Judgment and its implementation;
- (vii) Monitoring the resolution of consumer complaints, requests, and inquiries delivered to PCH by the Offices of the Attorneys General of the Settling States

and by consumers residing within the Settling States;

- (viii) Resolving such consumer complaints, requests, and inquiries on a case-by-case basis, which resolution may include determining whether refunds may be appropriate and whether a consumer should be removed from PCH's mailing lists and instructing PCH accordingly; and
- (ix) Recommending responses to any requests or inquiries from the Attorneys General of the Settling States and resolutions of any complaints from the Attorneys General of the Settling States regarding alleged violations of this Consent Judgment or applicable state or federal law by PCH.

In the event PCH declines to follow a recommendation made by the Special Compliance Counsel regarding the response or resolution of a complaint, request or inquiry made by a resident of a Settling State or by an Attorney General of a Settling State under subparagraphs (vi) through (ix) above, reporting to the Attorney General its recommendation and PCH's response in the written reports referred to in subparagraph (d) below.

PCH shall continue to retain the Special Compliance Counsel for not less than three (3) years after the date of entry of this Consent Judgment.

- b. The Settling States agree that if any of them believes that PCH has committed a material violation of any provision of this Order, or of any state consumer protection law or regulation which prohibits deceptive, misleading, or unfair trade practices, then the Attorney General who believes that such a material violation has occurred, may first contact the Special Compliance Counsel in writing, via facsimile (202) 962-8300, and overnight mail addressed to the attention of Benjamin R. Civiletti, Venable, Baetjer,

Howard & Civiletti, 1201 New York Avenue, Washington, DC, 20005, or any person subsequently designated to receive such notice, and advise the Special Compliance Counsel of the manner in which it is believed that this Order or any law or regulation has been materially violated. If such notice is given, the Special Compliance Counsel will have thirty (30) days to meet, discuss and/or recommend resolution of any alleged violation of this Order or any applicable law or regulation.

- c. PCH shall, under the oversight of its Special Compliance Counsel, respond to and attempt to resolve any consumer complaint, request, or inquiry pertaining to its mailings, its promotions, its Merchandise, and its billing efforts that may be sent to PCH by the Settling States or by consumers residing within the Settling States. PCH shall make its response and offer any resolution within thirty (30) days of receipt of the complaint, request, or inquiry and shall, through its Special Compliance Counsel, periodically notify the Attorney General of each Settling State as to the number, nature, and resolution of all complaints received from that Attorney General or from consumers in that Settling State. Any such consumer complaints, requests or inquiries may be sent by the Settling State to the attention of Christopher Irving, Director of Consumer Affairs, Publishers Clearing House, 382 Channel Drive, Port Washington, New York, N.Y. 11050, or any person subsequently designated by PCH to receive such notice. Alternatively, oral complaints, requests or inquiries from consumers may be sent to Mr. Irving at a designated toll-free number, currently (800) 337-4724.
- d. The Special Compliance Counsel shall provide quarterly written reports to the Settling States describing PCH's compliance with the terms of this Judgment, the results of the monitoring processes described above and the status of any complaints which remain unresolved as of the dates of the reports, with the first such report being due on or before a date three months after the date of entry of this Consent Judgment, and subsequent reports at three-month intervals for the first year from the Effective Date of

this Judgment, and at six-month intervals thereafter.

#### IV. MONETARY PROVISIONS

53. Restitution Amount. The Settling States shall recover and PCH shall pay consumer restitution in the amount of Nineteen Million Dollars (\$19,000,000.00). All money recovered for restitution and refunds shall be held by the Settling States until distributed by the Settling States to consumers pursuant to restitution programs to be determined by the Settling States. The Settling States shall cause such restitution funds to be deposited in an interest-bearing account (or accounts) and any interest accrued, or any money which cannot be distributed to consumers eligible under the Settling States' restitution programs within a reasonable period of time, may be used and/or applied to any other lawful use by the Settling States. PCH shall also provide, in a form acceptable to the Settling States, such information as is reasonably necessary to identify (a) consumers who will be eligible for restitution and (b) the amounts for which they may be eligible.<sup>2</sup>

54. Costs of Administration of Restitution Program. PCH shall pay One Million Dollars (\$1,000,000.00) to the Settling States for the costs of administering the consumer restitution programs.

The selection of any third-party administrator and the operation of any programs shall be in the sole

---

<sup>2</sup> In the event a Tennessee consumer entitled to restitution under this Consent Judgment cannot be located, those funds due such consumers shall be treated as unclaimed property in the possession of the State of Tennessee pursuant to the Uniform Disposition of Unclaimed Property Act, Tenn. Code Ann. § 66-29-101, *et seq.* These funds may be delivered to the Treasurer for the State of Tennessee prior to the statutory due date. Any Claims Administrator shall provide a report to the Tennessee Attorney General which details the amount delivered to the Treasurer for treatment as unclaimed property under Tennessee law. Any Claims Administrator shall provide all information necessary to the Treasurer's office for the State of Tennessee to appropriately handle such funds as unclaimed property as set forth by statute and regulation.

discretion of the Settling States. Any balance remaining after all restitution costs have been paid may be used and/or applied to any other lawful use by the Settling States.

55. Civil Penalty Funds. Pursuant to consumer protection laws, PCH shall pay civil penalties of One Million Dollars (\$1,000,000.00) to the Settling States, to be allocated among such states in such manner as they shall agree among themselves.

56. Other Funds. The Settling States shall recover the amount of Thirteen Million Dollars (\$13,000,000.00) which shall be applied by the Settling States to their consumer protection efforts, as well as in reimbursement of their litigation costs, attorneys fees, investigative costs, and any other lawful purpose.<sup>3</sup> Notwithstanding the immediately preceding sentence, subject to their respective state laws and policies, the States may use such reimbursement amount for any purpose provided by state law, including for placement in or application to, a consumer education, litigation, or local consumer aid fund or revolving fund, or for other uses to defray the costs of the litigations and investigations leading to this Judgment, as permitted by the laws of the State. In addition, a portion of these funds may be used to establish an Enforcement Fund for the purpose of providing financial assistance to State Attorneys General's offices for use in their efforts to enforce their Consumer Protection Acts, such Fund to be established in an agreement between and among the Settling States as to which PCH will not be a party. The Tennessee Attorney General in his sole discretion may participate in an Enforcement Fund, as set forth in this paragraph.

---

<sup>3</sup> All costs associated with the filing of the Complaint and this Consent Judgment shall be borne by PCH. No costs shall be taxed against the State as provided by Tenn. Code Ann. § 47-18-116. Costs shall be taxed to PCH.

In accordance with, and pursuant to, the provisions and procedures in Section IV, Paragraphs 56-61 of this Consent Judgment, PCH (through the fund administered by the Settling States) shall provide to the State of Tennessee money for attorneys' fees and costs of investigation, prosecution and monitoring for compliance of this matter. The money allocated to the State of Tennessee shall be used for the purposes set forth as follows:

- (1) One half of the money may be used for consumer protection purposes at the sole discretion of the Attorney General, and;
- (2) One half of the money shall be transferred to the General Fund of the State of Tennessee.



57. Collateral for Deferred Payments. PCH shall deliver to the Attorney General of the State of Missouri, on behalf of the Settling States, within ten (10) business days after the date of entry of this Consent Judgment in any one Settling State, as security for its payment obligations under paragraphs 53 to 56 hereof, a mortgage on all real property and improvements owned by it as of such date of entry, including its headquarters building located at 382 Channel Drive, Port Washington, New York, subject only to any prior lien and mortgage created to secure the financing contemplated by paragraph 59(b) hereof, which senior lien will be for not more than Nine Million Dollars (\$9,000,000.00).

58. Terms of Payment. The amounts payable under the preceding sections hereof, totaling Thirty-Four Million Dollars (\$34,000,000.00), shall, subject to paragraph 59 hereof, be paid as follows:

- a. On or before July 31, 2001, PCH shall pay to or to the order of the Settling States the sum of Eight Million Dollars (\$8,000,000.00).
- b. On or before July 31, 2002, PCH shall pay to or to the order of the Settling States the sum of Eight Million Dollars (\$8,000,000.00).
- c. On or before July 31, 2003, PCH shall pay to or to the order of the Settling States the sum of Nine Million Dollars (\$9,000,000.00).
- d. On or before July 31, 2004, PCH shall pay to or to the order of the Settling States the sum of Nine Million Dollars (\$9,000,000.00).

59. Acceleration of Amounts Due. Notwithstanding the timing provisions of paragraph 58 hereof:

- a. Six Million dollars (\$6,000,000.00) of the amount payable under subparagraphs b and c of paragraph 58 above shall be accelerated and become due and payable as and when PCH obtains financing on commercially reasonable terms in an amount of not less

than \$20 Million Dollars (\$20,000,000.00) subject to repayment not more rapidly than level payments of principal over five (5) years, which amount when paid shall be applied to reduce the amount payable in each subsequent installment payment ratably over both of such installment payments, and

- b. Nine Million Dollars (\$9,000,000.00) payable under subparagraph d of paragraph 58 above shall be accelerated and become due and payable as and when PCH obtains first mortgage financing on commercially reasonable terms, secured by its real properties, in an amount of not less than Nine Million Dollars (\$9,000,000.00) subject to repayment not more rapidly than level payments of principal over twenty (20) years, which amount when paid shall be applied to reduce the amount payable under said subparagraph d.

PCH shall use its best efforts to obtain the financing referred to in sub-paragraphs a and b above.

60. Method of Payment. All payments to be made to the Settling States shall be made by wire transfer of immediately available funds to the Missouri Attorney General, on behalf of the Settling States, at such address as he shall in writing direct, who will thereafter distribute the funds to the Settling States in accordance with the terms of this Consent Judgment and agreements between the Settling States to which PCH is not a party.

61. Allocation and Distribution of Funds among the Settling States. Allocation and distribution of all monies paid by PCH hereunder among the Settling States shall be made pursuant to an agreement among the Settling States to which PCH is not a party.

62. Default. In the event that PCH fails to make a scheduled payment by the 30th day of the next month following the month in which it is due, or if PCH defaults for any reason on its loan secured by the senior lien referred to in paragraph 59(b), PCH will be considered to be in default of the “Terms of Payment.” In the event of such default, a single Settling State or a group of Settling States may send to

PCH, at 382 Channel Drive, Port Washington, NY 11050, or such other address as PCH may

hereafter designate, a notice of its having defaulted. Said notice will advise PCH that:

- a. if payment is not received within fifteen (15) days of the mailing of that notice, the entire unpaid balance of the payments due under the “Terms of Payment” shall immediately become due and payable by PCH to the Settling States;
- b. PCH will be deemed to have violated the terms of this Consent Judgment and subject to any penalties permitted by state law and the Court's powers of contempt;
- c. interest will accrue beginning on the date by which the PCH is required to have cured its default in response to the mailing of the notice by a single Settling State or a group of Settling States and will continue to accrue until the judgment is paid in full; and
- d. a single Settling State or a group of Settling States will be permitted to execute upon the total sum to which it may be entitled under this provision, including foreclosure of the mortgage referred to in paragraph 59(b) as permitted in and provided for by New York state law.

Following the expiration of fifteen (15) days from the date of the mailing of the foregoing notice, if PCH has failed to cure the default by making all payments then due under the “Terms of Payment,” the entire unpaid balance of the payments described under the “Terms of Payment” shall immediately become due and payable by PCH to the States, PCH shall be deemed to have violated the terms of this judgment, interest shall accrue beginning on the Fifteenth Day from the date the notice was mailed, and the States may execute upon the total sum to which they are entitled.

63. Interest on Overdue Payments. Interest on any unpaid balance of any payment due hereunder shall accrue at the rate of nine percent (9%) per annum from the date due until paid in full.

## **V. ADMINISTRATIVE PROVISIONS**

64. Modification. Jurisdiction is retained for the purpose of enabling any party to this Consent Judgment to apply to the Court at any time for such further orders and directions as might be necessary or appropriate for the modification, construction, or carrying out of the injunctive provisions of this Consent Judgment, or for the enforcement of and the punishment of violations of any provisions hereof.<sup>4</sup>

- a. If the Attorney General determines that PCH has failed to comply with the terms of this Consent Judgment and if in the Attorney General's sole discretion the failure to comply does not threaten the health or safety of the citizens of the State of Tennessee, the Attorney General agrees to notify PCH of such failure to comply and PCH shall then have fourteen (14) days from receipt of such notice to provide a good faith written response to the Attorney General's determination.

The response shall include at a minimum:

- (i) a statement that PCH is in full compliance with the Consent Judgment;
- (ii) a detailed explanation of how the alleged violation(s) occurred;
- (iii) a statement that the alleged breach has been cured and how; or
- (iv) a statement that the alleged breach cannot be reasonably cured within fourteen (14) days from receipt of the notice, but (a) PCH has begun to take corrective action to cure the breach, (b) PCH is pursuing such corrective action with due and reasonable diligence, and (c) PCH has provided the Attorney General with a detailed and reasonable time table for curing the breach.

Nothing herein shall be construed to exonerate any contempt or failure to comply with any

---

<sup>4</sup> Pursuant to Tenn. Code Ann. § 47-18-108(c), any knowing violation of the terms of a court approved Consent Judgment, unless it is modified pursuant to Paragraph 64, shall be punishable by civil penalties of not more than Two Thousand Dollars (\$2,000.00) recoverable by the state for each violation, in addition to any other appropriate relief.

provision of this Order after the date of its entry, to compromise the authority of the Attorney General to initiate a proceeding for any contempt or other sanctions for failure to comply or to compromise the authority of the court to punish as contempt any violation of this Consent Judgment. Further, nothing in this subsection shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State of Tennessee. The giving of such notice shall not prevent the State from beginning such proceeding following the expiration of the fourteen (14) day period. No prior notice is required for any other state law action which can or may be filed.

- b. Any party to this Consent Judgment may petition the Court for modification on thirty (30) days notice to all other parties to this Consent Judgment. PCH may petition for modification if it believes that the facts and circumstances that led to the State's action against PCH have changed in any material respect. The parties by stipulation may agree to a modification of this Consent Judgment, which agreement shall be presented to this Court for consideration; provided that the parties may jointly agree to a modification only by a written instrument signed by or on behalf of both the State and PCH. If PCH wishes to seek a stipulation for a modification from the State, it shall send a written request for agreement to such modification to the Attorney General of the State at least thirty (30) days prior to filing a motion with the Court for such modification. Within thirty (30) days of receipt from PCH of a written request for agreement to modify, the Attorney General of the State shall notify PCH in writing if the Attorney General of the State agrees to the requested modification.
- c. If, after the date of entry of this Consent Judgment, the State, its Attorney General, or any agency of the State charged with the administration of its consumer protection statutes, enacts or promulgates legislation, rules, or regulations with respect to the matters governed by this Consent Judgment that conflict with any provision of this

Consent Judgment, or if the applicable law of the State shall otherwise change so as to conflict with any provision of this Consent Judgment, the Attorney General of such State shall not unreasonably withhold its consent to the modification of such provision to the extent necessary to eliminate such conflict. Laws, rules, or regulations, or other change in State law, with respect to the matters governed by this Consent Judgment, shall be deemed to “conflict” with a provision of this Consent Judgment PCH cannot reasonably comply with both such law, rule, or regulation and an applicable provision of this Consent Judgment. If PCH believes that it cannot reasonably comply both with this Consent Judgment and with applicable federal law, rules, or regulation, it may seek modification hereof. To the extent that federal law or regulation clearly preempts any provision of this Consent Judgment, which the parties agree is not the case as of the Entry Date of this Judgment, compliance with such federal law will not constitute a violation of that provision of this Consent Judgment.

- d. In the event that PCH believes that a change in circumstances after the entry of this Consent Judgment merits a change in the terms of paragraph 33 to permit different Entry Devices for those who wish to enter with an Order and those who wish to enter without an Order, PCH may petition the Court for a modification and the State will not unreasonably oppose any such petition.
5. In the event that an action to enforce this Consent Judgment is brought by the State, PCH reserves the right to contest the validity of Tenn. Code Ann. §§ 47-18-120 and 47-18-124. Nothing in this Order shall authorize the State of Tennessee to obtain sanctions for violation of this Consent Judgment beyond the remedies allowed by this Consent Judgment, Tenn. Code Ann. § 47-18-108 or otherwise allowed under Tennessee law.

**IT IS SO ORDERED, ADJUDGED AND DECREED.**

This \_\_\_\_\_ day of \_\_\_\_\_ , 2001.

\_\_\_\_\_  
**JUDGE**

## CONSENT TO JUDGMENT

1. PCH acknowledges that it has read the foregoing Consent Judgment, is aware of its right to a trial in this matter and has waived that right.
2. PCH admits the jurisdiction of this Court over the subject matter herein and over the person of PCH for the purposes of entering into and enforcing this Consent Judgment. PCH agrees it has received ten days notice, as set forth in Tenn. Code Ann. § 47-18-108(a)(2), that the State of Tennessee contemplated proceedings against PCH in order to effectuate the entry of this Consent Judgment. PCH through local counsel agreed to accept service of process from the State of Tennessee. Jurisdiction is retained by this Court for the purpose of enabling the State to apply such further orders and directions as may be necessary or appropriate for the construction, modification or execution of this Consent Judgment, including enforcement of compliance therewith and assessment of penalties for violation(s) thereof. Pursuant to Tenn. Code Ann. § 47-18-108, venue as to all matters between the parties relating hereto or arising out of this Consent Judgment is solely in the appropriate Circuit Court of Davidson County, Tennessee.
3. PCH acknowledges that its mailings were confusing to some consumers in the past. PCH regrets and apologizes for injury suffered by such consumers. PCH is committed to presenting its offers and its Sweepstakes clearly in all mailings and solicitations.
4. PCH states that no promise of any kind or nature whatsoever (other than the written terms of this Consent Judgment) was made to it to induce it to enter into this Consent Judgment, that it has entered into this Consent Judgment voluntarily, and that this Consent Judgment constitutes the entire agreement between PCH and the State.
5. Robin B. Smith represents that she is the Chairman and Chief Executive Officer of PCH and that, as such, has been authorized by PCH to enter into this Consent Judgment for and



on behalf of all entities bound by this Consent Judgment.

---

Robin B. Smith  
Chairman and Chief Executive Officer  
Publishers Clearing House

**FOR THE STATE OF TENNESSEE:**

---

**PAUL G. SUMMERS**

Attorney General and Reporter  
B.P.R. No. 6285

---

**STEVEN A. HART**

Special Counsel  
B.P.R. No. 7050  
(615) 741-3505

---

**DANA M. AUSBROOKS**

Assistant Attorney General  
B.P.R. No. 20625  
**Office of the Attorney General**  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 532-5512

**APPROVED:**

---

**DAVID A. MCCOLLUM**

State of Tennessee  
Department of Commerce and Insurance  
**Director — Division of Consumer Affairs**  
Fifth Floor, Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243-0600

**REVIEWED BY:**

National Settlement Counsel:

**Benjamin R. Civiletti**

**Jeffrey D. Knowles**

**William D. Coston**

**Christopher E. Gatewood**

**Venable, Baetjer, Howard & Civiletti**

1201 New York Avenue NW

Washington, D.C. 20005-3917

(202) 962-4800

National Litigation Counsel:

**Richard A. Mescon**

**Morgan, Lewis & Bockius, L.L.P.**

101 Park Avenue

New York, NY 10178

(212) 309-6000

Local Counsel

---

**H. Buckley Cole, Esq.**

**Tennessee Bar No. 11811**

**Greenebaum Doll and McDonald, PLLC**

3102 West End Avenue

Nashville, TN 37203

(615) 760-7130

***Exhibit “A”***

***Rendition of Sweepstakes Facts***